



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Support for H.R. 3125 - Earthquake Insurance Affordability Act

**MEETING DATE:** April 4, 2012

**PREPARED BY:** City Clerk

**RECOMMENDED ACTION:** Authorize the Mayor, on behalf of the City Council, to send a letter of support for H.R. 3125 - Earthquake Insurance Affordability Act (Campbell).

**BACKGROUND INFORMATION:** The City was recently asked by the League of California Cities to support H.R. 3125 pertaining to earthquake insurance affordability and send a letter of support regarding the same to Representative John Campbell.

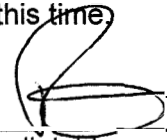
H.R. 3125 authorizes the Secretary of the Treasury to guarantee holders of debt against loss of principal or interest, or both, on debt issued by eligible state programs designed to: (1) promote the availability of private capital to provide liquidity and capacity to state earthquake (specifically, residential property) insurance programs, and (2) expedite the payment of claims under such programs and better assist financial recovery from significant earthquakes. Some of the facts associated with the proposed legislation are as follows:

- EIAA supports families' voluntary access to fairly priced earthquake insurance.
- 80% of Californians live on or near a fault yet fewer than 10% of California households are covered by earthquake insurance.
- Federal taxpayers were on the hook for more than \$9 billion after the 1994 Northridge quake, while California's taxpayers chipped in more than half a billion dollars more.
- Without affordable earthquake insurance, federal bailout or taxpayer subsidy is certain.
- In California, the public, nonprofit California Earthquake Authority (CEA) is the State's largest earthquake insurer.

For these reasons, it is recommended that local governments support the proposed legislation.

**FISCAL IMPACT:** Not applicable at this time.

**FUNDING AVAILABLE:** Not applicable at this time.

  
Randi Johl  
City Clerk

APPROVED: 

Konradt Bartlam, City Manager

CITY COUNCIL

JOANNE MOUNCE, Mayor  
ALAN NAKANISHI,  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
PHIL KATZAKIAN

# CITY OF LODI

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KONRADT BARTLAM,  
City Manager  
RANDI JOHL, City Clerk  
D. STEPHEN SCHWABAUER  
City Attorney

April 4, 2012

Honorable John Campbell  
U.S. House of Representatives  
Washington, DC 20515

Via Facsimile: (202) 225-9177

**SUBJECT: Earthquake Insurance Affordability Act (H.R. 3125) - SUPPORT**

Dear Congressman Campbell:

I am pleased to inform you of the City of Lodi's support of H.R. 3125, the Earthquake Insurance Affordability Act (EIAA).

Like many California cities, ours is particularly vulnerable to devastating earthquakes. It is of great concern to know that less than 10% California households are properly covered although 80% of its residents currently live on or near a fault. It is clear that Californians need greater access to affordable earthquake insurance.

Increasing the number of insured homeowners could not only reduce the risk to all taxpayers, but also protect local communities, like ours, left vulnerable after a catastrophic natural disaster as they struggle to rebuild. Having insurance is the key to a fast recovery after a disaster.

The EIAA is a fiscally sound solution that empowers homeowners and protects taxpayers. It provides a limited guarantee that would significantly reduce insurance premiums by as much as 20% and allow more homeowners to afford earthquake insurance in California. Preliminary estimates by the nonpartisan Congressional Budget Office (CBO) states the EIAA cost to the federal government and taxpayers is zero. Thank you for your leadership on this critical issue.

Sincerely,

JoAnne Mounce  
Mayor

C: Senator Dianne Feinstein  
Glenn Pomeroy, California Earthquake Authority  
Stephen Qualls, League of California Cities

## Randi Johl

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**From:** Randi Johl  
**Sent:** Monday, March 26, 2012 10:38 AM  
**To:** Randi Johl  
**Subject:** FW: Letters needed

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**From:** Stephen R. Qualls [squalls@cacities.org](mailto:squalls@cacities.org)  
**Sent:** Tuesday, March 13, 2012 4:25 PM  
**Subject:** Letters needed

Below please find the first action alert of the year. We are seeking support for H.R. 3125: Earthquake Insurance Affordability Act (EIAA). Attached you will find a sample letter of support along with back up information and a list of supporters. I have also included the contact information for Senator Feinstein as well as Representative Campbell. If you could please send me a copy of the letter I would appreciate it. Please contact me if you have any questions. Thank you for your help,

Senator Diane Feinstein  
Washington, DC Office:  
331 Hart Senate Office Bldg.  
Washington, D.C. 20510  
Phone: (202) 224-3841  
Fax: (202) 228-3954  
TTY/TDD: (202) 224-2501  
Email: [www.feinstein.senate.gov/public/index.cfm/e-mail-me](http://www.feinstein.senate.gov/public/index.cfm/e-mail-me)

Congressman John Campbell  
Washington, DC Office:  
1507 Longworth Building  
Washington, DC 20515  
Phone: (202) 225-5611  
Fax: (202) 225-9177  
Email: [http://www.campbell.house.gov/index.php?option=com\\_content&view=article&id=1023&Itemid=34](http://www.campbell.house.gov/index.php?option=com_content&view=article&id=1023&Itemid=34)  
Stephen Qualls  
Central Valley Regional Public Affairs Manager  
League of California Cities

209-614-0118  
Fax 209-883-0653  
[squalls63@cacities.org](mailto:squalls63@cacities.org)

To expand and protect local control for cities through education and advocacy in order to enhance the quality of life for all Californians.

03/26/2012

PLEASE DO NOT distribute advocacy information from public (city hall) computers, on city time, or using public resources, even if it's from your personal email account. If in doubt, check with your city attorney.

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112TH CONGRESS  
1ST SESSION

# H. R. 3125

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2011

Mr. CAMPBELL (for himself, Mr. LEWIS of California, and Mr. CALVERT) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To establish a program to provide guarantees for debt issued by or on behalf of State catastrophe insurance programs to assist in the financial recovery from earthquakes, earthquake-induced landslides, volcanic eruptions, and tsunamis.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Earthquake Insurance Affordability Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

See. 1. Short title; table of contents.  
 Sec. 2. Findings and purposes.  
 Sec. 3. Definitions.  
 Sec. 4. Eligible State programs.  
 Sec. 5. Establishment of debt-guarantee program.  
 Sec. 6. Effect of guarantee.  
 Sec. 7. Assessment at time of guarantee.  
 Sec. 8. Payment of losses.  
 Sec. 9. Full faith and credit.  
 Sec. 10. Budgetary impact; costs.  
 Sec. 11. Regulations.

**1 SEC. 2. FINDINGS AND PURPOSES .**

**2 (a) FINDINGS.**—Congress finds the following:

**3 (1)** Major earthquakes are likely in the United  
**4** States. For example, the United States Geological  
**5** Survey predicts that there is a 99.7 percent chance  
**6** that a magnitude 6.7 earthquake will strike in Cali-  
**7** fornia in the next **30** years and that there is a 46  
**8** percent chance that a magnitude 7.5 earthquake will  
**9** strike in California in the next **30** years. Earth-  
**10** quakes can be caused by volcanic or tectonic events  
**11** and result in destructive shaking of the earth, fires,  
**12** landslides, volcanic eruptions, and tsunamis.

**13 (2)** Despite the known risk of earthquakes, rel-  
**14** atively few homeowners have earthquake insurance.  
**15** For example, in California, 88 percent of homes in-  
**16** sured for fire do not have earthquake insurance. In  
**17** the event of a catastrophic earthquake, the lack of  
**18** homeowner earthquake-insurance coverage will slow  
**19** recovery, create economic hardship, and increase the

1 risk of mortgage and other credit defaults and ad-  
2 versely affect the Nation's banking system.

3 (3) It is important that States improve the af-  
4 fordability, availability, and quality of earthquake in-  
5 surance so that more homeowners will purchase cov-  
6 erage. For example, California has created the Cali-  
7 fornia Earthquake Authority to provide earthquake  
8 insurance to homeowners through private-sector in-  
9 surers.

10 (4) It is a proper role of the Federal Govern-  
11 ment to help prepare and protect its citizens from  
12 catastrophes such as earthquakes and to facilitate  
13 consumer protection, victim assistance, and indi-  
14 vidual and community recovery, including financial  
15 recovery.

16 (b) PURPOSES.—The purposes of this Act are to es-  
17 tablish a program—

18 (1) to promote the availability of private capital  
19 to provide liquidity and capacity to State earthquake  
20 insurance programs; and

21 (2) to expedite the payment of claims under  
22 State earthquake insurance programs and better as-  
23 sist the financial recovery from significant earth-  
24 quakes by authorizing the Secretary of the Treasury  
25 to guarantee debt for such purposes.

1 **SEC. 3. DEFINITIONS.**

2 In this Act, the following definitions shall apply:

3 (1) **COMMITMENT TO GUARANTEE.**—The term  
4 “commitment to guarantee” means a commitment to  
5 make debt guarantees to an eligible State program  
6 pursuant to section 5.

7 (2) **ELIGIBLE STATE PROGRAM.**—The term “eli-  
8 gible State program” means a State program that,  
9 pursuant to section 4, is eligible to receive a debt  
10 guarantee under this Act.

11 (3) **INSURED LOSS.**—The term “insured loss”  
12 means any loss resulting from an earthquake, an  
13 earthquake-related event, or fire following an earth-  
14 quake that is determined by an eligible State pro-  
15 gram as being covered by insurance made available  
16 under that eligible State program.

17 (4) **QUALIFYING ASSETS.**—The term “quali-  
18 fying assets” means the policyholder surplus of the  
19 eligible State program as stated in the most recent  
20 quarterly financial statement filed by the program  
21 with the domiciliary regulator of the program in the  
22 last quarter ending prior to an insured-loss trig-  
23 gering event or events.

24 (5) **RESIDENTIAL PROPERTY INSURANCE.**—The  
25 term “residential property insurance” means insur-  
26 ance coverage for—

1 (A) individually owned residential struc-  
2 tures of not more than 4 dwelling units, individ-  
3 ually owned condominium units, or individually  
4 owned mobile homes, and their contents, located  
5 in a State and used exclusively for residential  
6 purposes or a tenant's policy written to include  
7 personal contents of a residential unit located in  
8 the State, but shall not include—

9 (i) insurance for real property or its  
10 contents used for any commercial, indus-  
11 trial, or business purpose, except a struc-  
12 ture of not more than 4 dwelling units  
13 rented for individual residential purposes;  
14 or

15 (ii) a policy that does not include any  
16 of the perils insured against in a standard  
17 fire policy or any earthquake policy; or

18 (B) commercial residential property, which  
19 includes property owned by a condominium as-  
20 sociation or its members, property owned by a  
21 cooperative association, or an apartment build-  
22 ing.

23 (6) SECRETARY.—The term “Secretary” means  
24 the Secretary of the Treasury.

1           (7) **STATE.**—The term “State” means each of  
2           the several States of the United States, the District  
3           of Columbia, the Commonwealth of Puerto Rico, the  
4           Commonwealth of the Northern Mariana Islands,  
5           Guam, the United States Virgin Islands, American  
6           Samoa, and any other territory or possession of the  
7           United States.

8   **SEC. 4. ELIGIBLE STATE PROGRAMS.**

9           (a) **ELIGIBLE STATE PROGRAMS.**—A State program  
10          shall be considered an eligible State program for purposes  
11          of this Act if the State program or other State entity au-  
12          thorized to make such determinations certifies to the Sec-  
13          retary, in accordance with the procedures established  
14          under subsection (b), that the State program complies  
15          with the following requirements:

16               (1) **STATE PROGRAM DESIGN.**—The State pro-  
17               gram is established and authorized by State law as  
18               an earthquake insurance program that offers resi-  
19               dential property insurance coverage for insured  
20               losses to property, contents, and additional living ex-  
21               penses, and which is not a State program that re-  
22               quires insurers to pool resources to provide property  
23               insurance coverage for earthquakes.

24               (2) **OPERATION.**—The State program shall  
25               meet the following requirements:

1 (A) A majority of the members of the gov-  
2 erning body of the State program shall be pub-  
3 lic officials or appointed by public officials.

4 (B) The State shall have a financial inter-  
5 est in the State program.

6 (C) If the State has at any time appro-  
7 priated amounts from the State program's  
8 funds for any purpose other than payments for  
9 losses insured under the State program, or pay-  
10 ments made in connection with any of the State  
11 program's authorized activities, the State shall  
12 have returned such amounts to the State fund,  
13 together with interest on such amounts.

14 (3) ~~TAX STATUS.~~—The State program shall  
15 have received from the Secretary (or the Secretary's  
16 designee) a written determination, within the mean-  
17 ing of section 6110(b) of the Internal Revenue Code  
18 of 1986, that the State program either—

19 (A) constitutes an “integral part” of the  
20 State that has created it; or

21 (B) is otherwise exempt from Federal in-  
22 come taxation.

23 (4) ~~EARNINGS.~~—The State program may not  
24 provide for any distribution of any part of any net

1 profits of the State program to any insurer that par-  
2 ticipates in the State program.

3 (5) LOSS PREVENTION AND MITIGATION.—

4 (A) MITIGATION OF LOSSES.—The State  
5 program shall include provisions designed to en-  
6 courage and support programs to mitigate  
7 losses for which the State insurance program  
8 was established to provide insurance.

9 (B) OPERATIONAL REQUIREMENTS.—The  
10 State program shall operate in a State that—

11 (i) has in effect and enforces, or the  
12 appropriate local governments within the  
13 State have in effect and enforce, nationally  
14 recognized building, seismic-design, and  
15 safety codes and consensus-based stand-  
16 ards; and

17 (ii) has taken actions to establish an  
18 insurance rate structure that takes into ac-  
19 count measures to mitigate insured losses.

20 (6) REQUIREMENTS REGARDING COVERAGE.—

21 The State program—

22 (A) may not, except for charges or assess-  
23 ments related to post-event financing or bond-  
24 ing, involve cross-subsidization between any  
25 separate property-and-casualty insurance lines

1           offered under the State program pursuant to  
2           paragraph (1);

3           (B) shall be subject to a requirement  
4           under State law that for earthquake insurance  
5           coverage made available under the State insur-  
6           ance program the premium rates charged on  
7           such insurance shall be actuarially sound; and

8           (C) shall make available to all qualifying  
9           policyholders insurance coverage and mitigation  
10          services on a basis that is not unfairly discrimi-  
11          natory.

12       (b) ANNUAL CERTIFICATION.—The Secretary shall  
13       establish procedures for initial certification and annual re-  
14       certification as an eligible State program.

15       **SEC. 5. ESTABLISHMENT OF DEBT-GUARANTEE PROGRAM.**

16       (a) AUTHORITY OF SECRETARY.—The Secretary is  
17       authorized and shall have the powers and authorities nec-  
18       essary —

19           (1) to guarantee, and to enter into commit-  
20           ments to guarantee, holders of debt against loss of  
21           principal or interest, or both, on any debt issued by  
22           eligible State programs for purposes of this Act; and

23           (2) to certify and recertify State catastrophe in-  
24           surance programs that cover earthquake peril to be-

1       come or remain eligible for the benefits of such a  
2       debt-guarantee program.

3       (b) LIMIT ON OUTSTANDING DEBT GUARANTEE.—

4       The aggregate amount of debt covered by the Secretary's  
5       guarantees and commitments to guarantee for all eligible  
6       State programs outstanding at any time shall not exceed  
7       \$5,000,000,000, including interest.

8       (c) FUNDING. —

9               (1) APPROPRIATION OF FEDERAL PAYMENTS. —

10       Subject to subsection (b), there are hereby appro-  
11       priated, out of funds in the Treasury not otherwise  
12       appropriated, such sums as may be necessary to sat-  
13       isfy debt guarantee commitments extended to eligible  
14       State programs under this Act.

15               (2) CERTIFICATION FEE.—Upon certification or  
16       recertification as an eligible State program under  
17       section 4(a) or 4(b), a State program shall be  
18       charged a certification fee sufficient in the judge-  
19       ment of the Secretary at the time of certification to  
20       cover—

21               (A) applicable administrative costs arising  
22       from each certification or recertification, includ-  
23       ing all pre-certification costs and a proportional  
24       share of the costs arising from the administra-  
25       tion of the program established under this Act,

1 but in any event not to exceed one-half of 1  
2 percent annum of the aggregate principal  
3 amount of the debt for which the eligible State  
4 program is issued a guarantee commitment;  
5 and

6 (B) any probable losses on the aggregate  
7 principal amount of the debt for which the eligi-  
8 ble State program is issued a guarantee com-  
9 mitment.

10 (3) RULE OF CONSTRUCTION.—Any funds ex-  
11 pended or obligated by the Secretary for the pay-  
12 ment of administrative expenses for conduct of the  
13 debt-guarantee program authorized by this Act shall  
14 be deemed appropriated at the time of such expendi-  
15 ture or obligation from the certification and recer-  
16 tification fees collected pursuant to paragraph (2).

17 (d) CONDITION8 FOR GUARANTEE ELIGIBILITY.—A  
18 debt guarantee under this section may be made only if  
19 the Secretary has issued a commitment to guarantee to  
20 a certified, eligible State program. The commitment to  
21 guarantee shall be in force for a period of 3 years from  
22 its initial issuance and may be extended by the Secretary  
23 for 1 year on each annual anniversary of the issuance of  
24 the commitment to guarantee. The commitment to guar-  
25 antee and each extension of such commitment may be

1 issued by the Secretary only if the following requirements  
2 are satisfied:

3           (1) The eligible State program submits to the  
4 Secretary a report setting forth, in such form and  
5 including such information as the Secretary shall re-  
6 quire, how the eligible State program plans to repay  
7 guarantee-eligible debt it may incur.

8           (2) Based on the eligible State program's report  
9 submitted pursuant to paragraph (1), the Secretary  
10 determines there is reasonable assurance that the el-  
11 igible State program can meet its repayment obliga-  
12 tion under such debt.

13           (3) The eligible State program enters into an  
14 agreement with the Secretary, as the Secretary shall  
15 require, that the eligible State program will not use  
16 Federal funds of any kind or from any Federal  
17 source (including any disaster or other financial as-  
18 sistance, loan proceeds, and any other assistance or  
19 subsidy) to repay the debt.

20           (4) The commitment to guarantee shall specify  
21 and require the payment of the fees for debt guar-  
22 antee coverage.

23           (5) The maximum term of the debt specified in  
24 a commitment issued under this section may not ex-  
25 ceed **30** years.

1 (e) MANDATORY ASSISTANCE FOR ELIGIBLE STATE  
2 PROGRAMS.—The Secretary shall upon the request of an  
3 eligible State program and pursuant to a commitment to  
4 guarantee issued under subsection (d), provide a guar-  
5 antee under subsection (f) for such eligible State program  
6 in the amount requested by such eligible State program,  
7 subject to the limitation under subsection (f)(2).

8 (f) CATASTROPHE DEBT GUARANTEE.—A debt guar-  
9 antee under this subsection for an eligible State program  
10 shall be subject to the following requirements:

11 (1) PRECONDITIONS.—The eligible State pro-  
12 gram shows to the satisfaction of the Secretary that  
13 insured losses to the eligible State program arising  
14 from the event or events covered by the commitment  
15 to guarantee are likely to exceed 80 percent of the  
16 eligible State program's qualifying assets available to  
17 pay claims, as calculated on the date of the event  
18 and based on the eligible State program's most re-  
19 cent quarterly financial statement filed with its  
20 domiciliary regulator.

21 (2) USE OF FUNDS.—Proceeds of debt guaran-  
22 teed under this section shall be used only to pay the  
23 costs of issuing debt and of securing or providing  
24 claim-payment capacity for paying the insured losses  
25 and loss adjustment expenses incurred by an eligible

1 State program. Such amounts shall not be used for  
2 any other purpose.

3 **SEC. 6. EFFECT OF GUARANTEE.**

4 The issuance of any guarantee by the Secretary  
5 under this Act shall be conclusive evidence that—

6 (1) the guarantee has been properly obtained;

7 (2) the underlying debt qualified for such guar-  
8 antee; and

9 (3) the guarantee is valid, legal, and enforce-  
10 able.

11 **SEC. 7. ASSESSMENT AT TIME OF GUARANTEE.**

12 To extent not satisfied by the fees collected under sec-  
13 tion 5(c)(2), the Secretary shall charge and collect fees  
14 for each guarantee issued in amounts sufficient in the  
15 judgement of the Secretary at the time of issuance of the  
16 guarantee to cover applicable administrative costs and  
17 probable losses on the guaranteed obligations.

18 **SEC. 8. PAYMENT OF LOSSES.**

19 (a) IN GENERAL.—The Secretary agrees to pay to  
20 the duly appointed paying agent or trustee (in this section  
21 referred to as the “Fiscal Agent”) for the eligible State  
22 program that portion of the principal and interest on any  
23 debt guaranteed under this Act that shall become due to  
24 payment but shall be unpaid by the eligible State program  
25 as a result of such program having provided insufficient

1 funds to the Fiscal Agent to make such payments. The  
2 Secretary shall make such payments on the date such  
3 principal or interest becomes due for payment or on the  
4 business day next following the day on which the Secretary  
5 shall receive notice of failure on the part of the eligible  
6 State program to provide sufficient funds to the Fiscal  
7 Agent to make such payments, whichever is later. Upon  
8 making such payment, the Secretary shall be subrogated  
9 to all the rights of the ultimate recipient of the payment.  
10 The Secretary shall be entitled to recover from the eligible  
11 State program the amount of any payments made pursu-  
12 ant to any guarantee entered into under this Act.

13 (b) ~~ROLE OF THE ATTORNEY GENERAL.~~—The Attor-  
14 ney General shall take such action as may be appropriate  
15 to enforce any right accruing, and to collect any and all  
16 sums owing, to the United States as a result of the  
17 issuance of any guarantee under this Act.

18 (c) ~~RULE OF CONSTRUCTION.~~—Nothing in this sec-  
19 tion shall be construed to preclude any forbearance for the  
20 benefit of the eligible State program which may be agreed  
21 upon by the parties to the guaranteed debt and approved  
22 by the Secretary, provided that budget authority for any  
23 resulting cost, as such term is defined under the Federal  
24 Credit Reform Act of 1990, is available.

1       (d) RIGHT OF THE SECRETARY.—Notwithstanding  
2 any other provision of law relating to the acquisition, han-  
3 dling, or disposal of property by the United States, the  
4 Secretary shall have the right in the discretion of the Sec-  
5 retary to complete, recondition, reconstruct, renovate, re-  
6 pair, maintain, operate, or sell any property acquired by  
7 the Secretary pursuant to the provisions of this Act.

8 **SEC. 9. FULL FAITH AND CREDIT.**

9       The full faith and credit of the United States is  
10 pledged to the payment of all guarantees issued under this  
11 Act with respect to principal and interest.

12 **SEC. 10. BUDGETARY IMPACT; COSTS.**

13       For purposes of section 502(5) of the Federal Credit  
14 Reform Act of 1990, the cost of guarantees to be issued  
15 under this Act shall be calculated by adjusting the dis-  
16 count rate in section 502(5)(E) of such Act for market  
17 risk.

18 **SEC. 11. REGULATIONS.**

19       The Secretary shall issue any regulations necessary  
20 to carry out the debt-guarantee program established under  
21 this Act.

*O*